

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAYTON COTE,

Plaintiff,

v.

U.S. SILICA COMPANY, NORFOLK
SOUTHERN CORPORATION,
SCHNELL INDUSTRIES, and FB
INDUSTRIES,

Defendants.

No. 4:18-CV-01440

(Chief Judge Brann)

ORDER

AUGUST 23, 2022

In accordance with the accompanying Memorandum Opinion, **IT IS HEREBY ORDERED** that Defendant FB Industries' and Defendant Schnell Industries' motions to preclude the expert report and testimony of Plaintiff Dayton Cote's proffered engineering expert, Michael Tarkanian, P.E. (Doc. 222; Doc. 225) are **GRANTED IN PART, DENIED IN PART:**

1. Tarkanian's opinion that the TLX36 transloader lacked a "lock out device" and that this design defect "directly contributed to the injury of Mr. Cote" is admissible.¹
2. Tarkanian's opinion that at Schnell and FB Industries, "the lack of engineers, failure to hire third-party engineers, and lack of experience with . . . relevant safety standards, all contributed to the defective design of omitting a lock out

¹ See Doc. 222-1, Ex. A (Tarkanian Report) at 16–17.

device, and incorrectly relying on a keyed ignition to be a lockout device” is admissible.²

3. Tarkanian’s opinion that “[t]he manual provided by [Schnell] and [FB Industries] for the TLX36 [transloader] contributes to unsafe practices using the machine” is admissible.³
4. Tarkanian’s opinion that “the design of the electrical circuit to the scale discourages machine users from shutting off the ignition” and that this design defect “directly contributed to the injury of Mr. Cote” is admissible.⁴
5. Tarkanian’s opinion that the “improper location of controls for the PTO” directly contributed to Cote’s injury is admissible.⁵
6. Tarkanian’s opinion that “the dust collector blocking the line of sight to the PTO/stinger” and “the angle of the stairs require[ing] the user to turn their back to the controls, PTO, and stinger while descending the catwalk” directly contributed to Cote’s injury is inadmissible.⁶

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

² *Id.* at 16.

³ *Id.* at 16–17.

⁴ *Id.* at 17.

⁵ *Id.*

⁶ *Id.*